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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/527,194	03/17/2000	G. Alton Waschka	HES-Y-336	3616

7590 05/28/2004
DUANE MORRIS LLP
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WASHINGTON, DC 20006

EXAMINER

PHU, PHUONG M

ART UNIT	PAPER NUMBER
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2631

DATE MAILED: 05/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/527,194

Applicant(s)

WASCHKA ET AL.

Examiner

Phuong Phu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 8-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 and 8-19 is/are allowed.
- 6) ☒ Claim(s) 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to the Amendment filed on 4/2/04.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Otto (5,859,613), previously-cited.

See figures 1-6, and col. 3, line 46 to col. 7, line 62, Otto discloses a discriminating method for use in a multiple access chirp radio communication system (figure 1) having two mobile transmitters (T1, T2), the mobile transmitters generating chirp signals conveying data information over independent paths within a same frequency band (4 MHz) (see col. 5, lines 16-23), wherein the method can discriminate chirps signals transmitted from the mobile transmitters, and the method (see figures 5 and 6) comprises:

step (52) (see figure 5) of receiving an chirp signal (60), being expected (see figure 6);
step (64) (see figure 6) of detecting the slope of the received chirp signal by modulating a reference chirp signal (62) having a slope corresponding to the slope of the received signal; and
step (54) (see figure 5) of determining or recognizing the chirp signal as the expected chirp signal for further processing when signals outputted from means (64) (see figure 4) are detected as CW or null (see col. 7, lines 15-21).

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Otto does not disclose that said mobile transmitters transmit chirps with different slopes from each other, and neither discloses that step (54) can determine which mobile transmitter has transmitted the chirp signals being detected by step (64). However, Otto discloses that the chirps signals generated from each of the mobile transmitters can be in form of a slope having upward or downward during a particular time interval and over the frequency bandwidth as long as the reference chirp signal (62) is set to have a slope matching with the transmitted slope (see col. 5, lines 16-30, and col. 7, lines 10-24).

Therefore, it would have been obvious for one skilled in the art, when building Otto invention, would implement each the mobile transmitters generating chirps with a slope different from each other so that step (52) of Otto invention would determine or recognize the mobile transmitter which had transmitted the chirp signals being detected by step (64) if there was no need for the data information, conveyed by the chirp signals, to include an identification information of said mobile transmitter.

Allowable Subject Matter

4. Claims 1-5 and 8-19 are allowed.

Response to Arguments

5. Applicant's arguments filed on 4/2/04 have been fully considered but they are not, in part, persuasive.

Applicant's arguments with respect to the rejection, under 35 USC 112, to claims 8-11, 17, 18 and 20, are render moot. The rejection is now withdrawn since the claims have been amended to over come the previous rejections.

Applicant's arguments with respect to the rejection, under 35 USC 102, to claim 20, have been considered. The rejection is now withdrawn. However, upon further consideration, the claim 20, after being amended, are deemed not patentable over Otto because of reasons in the new ground of rejection, set forth above in this Office Action.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Phu whose telephone number is 703-308-0158. The examiner can normally be reached on M-F (8:30-6:00) First Monday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on 703-306-3034. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuong Phu

Phuong Phu
05/26/04

Phuong Phu
Primary Examiner
Art Unit 2631

**PHUONG PHU
PRIMARY EXAMINER**